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MEMORANDUM OF UNDERSTANDING (MOU)

among

THE DEPARTMENT OF DEFENCE OF AUSTRALIA

and

THE MINISTRY OF DEFENSE OF THE REPUBLIC OF ITALY

and

THE SECRETARY OF STATE FOR DEFENCE OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND

and

THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

concerning

COOPERATIVE PROJECTS FOR THE C-130J

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INTRODUCTION

The Department of Defence of Australia (AS), the Ministry of Defense of the Republic of Italy (IT), the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland (UK), and the Department of Defense of the United States of America (US), hereinafter referred to as the "Participants":

Having a common interest in defense;

Recognizing the benefits to be obtained from rationalization, standardization and interoperability of military equipment;

Desiring to improve their mutual conventional defense capabilities through the application of emerging technology;

Having a mutual need for the further development of the C-130J aircraft to satisfy common operational requirements;

Having independently conducted studies, research, and development of the applications of various technologies, recognize the benefits of cooperation on the C-130J;

Have reached the following understandings:

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SECTION 1

DEFINITIONS AND ABBREVIATIONS

1.1 The Participants have jointly decided upon the following definitions for terms used in this MOU:

C-130J	Aircraft designation to include all C-130J aircraft derivatives (e.g., C-130J-30, CC-130J, KC-130J, HC-130J etc.).
Classified Information	Official information that requires protection in the interests of national security and is so designated by the application of a security classification. This information may be in oral, visual, magnetic or documentary form or in the form of equipment or technology.
Contract	Any mutually binding legal relationship under national laws which obligates a Contractor to furnish supplies or services, and obligates one or more of the Participants to pay for them.
Contracting	The obtaining of supplies or services by Contract from sources outside the government organizations of the Participants. Contracting includes description (requirements decision) of supplies and services required by the Participants, solicitation and selection of sources, preparation and award of Contracts, and all phases of Contract administration.
Contracting Agency	The entity within the government organization of a Participant, which has the authority to enter into, administer, or terminate Contracts.
Contracting Officer	A person representing a Contracting Agency of a Participant who has the authority to enter into, administer, or terminate Contracts.
Contractor	Any entity awarded a Contract under a Project by a Participant's Contracting Agency.

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Controlled Unclassified Information	Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under this MOU, the information will be marked to identify its "in confidence" nature. It could include information, which has been declassified, but remains controlled.
Cooperative Project Personnel (CPP)	Military members or civilian employees of a Participant assigned to work on a Project at facilities of the other Participant(s) who perform managerial, engineering, technical, administrative, contracting, logistics, financial, planning or other functions in furtherance of a Project.
Defense Purposes	Manufacture or other use in any part of the world by or for the armed forces of any Participant.
Designated Security Authority (DSA)	The security office approved by national authorities to be responsible for the security aspects of this MOU.
Financial Costs	Costs met with monetary contributions.
Intellectual Property Rights	Intellectual Property Rights means all copyright and neighbouring rights; all rights in relation to inventions (including patent rights), registered and unregistered trademarks (including service marks), registered and unregistered designs, confidential information (including trade secrets and know how), circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields.
Non-Financial Costs	Costs met with non-monetary contributions.
International Project Management Plan (IPMP)	A plan that describes what is to be achieved in a Project, by whom and how.
Participant(s)	Any signatory to the MOU (as already defined) or, where the context so requires, those Participants signatory to a Project Arrangement.

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Patent	Legal protection of the right to exclude others from making, using, or selling an invention. The term refers to any and all Patents, including but not limited to Patents of implementation, improvement, or addition; petty Patents, utility models, appearance design Patents, registered designs, and inventor certificates or like statutory protection as well as divisions, reissues, continuations, renewals, and extensions of any of these.
Project	Specific C-130J collaborative activities described in a Project Arrangement to this MOU or an activity under this MOU.
Project Arrangement (PA)	An implementing arrangement under this MOU, which specifically details the terms of collaboration on a Project.
Project Background Information	Project Information not generated in the performance of a Project.
Project Equipment	Any material, equipment, end item, subsystem, component, special tooling or test equipment that is either owned by one Participant and provided for use in a Project by that Participant or is jointly funded and acquired by the Participants for use in a Project.
Project Foreground Information	Project Information generated in the performance of a Project.
Project Information	Any information provided to, generated in, or used in a PA or under this MOU, regardless of form or type, including, but not limited to, that of a scientific, technical, business, or financial nature, and also including photographs, reports, manuals, threat data, experimental data, test data, designs, specifications, processes, techniques, inventions, drawings, technical writings, sound recordings, pictorial representations, and other graphical presentations, whether in magnetic tape, computer memory, or any other form and whether or not subject to copyright, patent, or other legal protection.

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Project Invention

Any invention or discovery formulated or made (conceived or "first actually reduced to practice") in the course of work performed under a PA. The term "first actually reduced to practice" means the first demonstration, sufficient to establish to one skilled in the art to which the invention pertains, of the operability of an invention for its intended purpose and in its intended environment.

Third Party

A government other than the government of a Participant and any person or other entity whose government is not the government of a Participant.

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1.2 The following abbreviations are used in this MOU:

AS	Australia
CG	Classification Guide
CPP	Cooperative Project Personnel
DSA	Designated Security Authority
FMPD	Financial Management Procedure Document
IPMP	International Project Management Plan
IT	Italy
PA	Project Arrangement
PO	Project Officer
PSI	Project Security Instruction
SC	Steering Committee
UK	United Kingdom
US	United States

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SECTION 2

OBJECTIVE

- 2.1 The objective of this MOU is to define and establish the general principles which will apply to the initiation, conduct, and management of Projects established by separate Project Arrangements (PAs) under this MOU which may be entered into by two or more Participants. Cooperative activities under this MOU will contribute to the rationalisation, standardisation and interoperability of the Participant's C-130J fleets.
- 2.2 The provisions of this MOU are incorporated by reference in each PA. Detailed provisions of each PA will be consistent with this MOU, will identify the Participants thereto, and will include, as a minimum, provisions concerning the objectives, scope of work, sharing of tasks, breakdown and schedule of tasks, management, financial arrangements, special contracting provisions (optional), security classification, principal organizations involved, entry into effect, duration and termination and other special provisions, as required, in accordance with the format attached as Annex A of this MOU.
- 2.3 In the event of conflict between the provisions of this MOU and any PA, the MOU will govern.

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SECTION 3
SCOPE OF WORK

- 3.1 The scope of work of this MOU encompasses identifying common requirements and establishing PAs for C-130J cooperation. PAs may include collaboration on studies, technology insertion, design, development, production, modification and follow-on support efforts that will enhance the capabilities and/or sustain the Participants' C-130J weapon systems' fleets.
- 3.2 Exchange of Project Information specifically for the purposes of evaluation and agreed harmonization of the Participants' respective C-130J requirements and for formulating, developing and negotiating PAs is permitted under this MOU.
- 3.3 This MOU does not preclude the Participants from entering into any other arrangements in the area of C-130J cooperation.

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SECTION 4

MANAGEMENT (ORGANIZATION AND RESPONSIBILITY)

4.1 Projects will be directed and administered on behalf of the Participants by an organization consisting of the Steering Committee (SC) and Project Officers (POs) appointed by the Participants. The SC will have authority over the POs pursuant to this MOU. The POs will have primary responsibility for effective implementation, efficient management, and direction of their Projects in accordance with this MOU.

4.2 The SC will consist of a representative appointed by each Participant. The SC will meet at least annually with additional meetings held at the request of any representative. Each meeting of the SC will be chaired by the representative of the Participant hosting the meeting. Decisions of the SC will be made unanimously. However, with respect to any matter involving a Project entered into by fewer than all of the Participants, the SC representative of any Participant that does not participate in the Project will only have observer status. In the event that the SC is unable to reach a timely decision on an issue, each SC representative will refer the issue to its higher authority for resolution.

4.3 The SC will be responsible for:

4.3.1 Monitoring international cooperative opportunities for analysis as candidate C-130J Projects;

4.3.2 Exercising executive-level oversight of Projects;

4.3.3 Reviewing the financial status of Projects to ensure compliance with the provisions of Section 5 (Financial Provisions);

4.3.4 Resolving issues brought forth by the PO(s);

4.3.5 Reviewing and forwarding to the Participants for approval, PAs and amendments thereto, in accordance with this MOU and national policies and procedures;

4.3.6 Maintaining oversight of the security aspects of the PAs, including ensuring approval is obtained from the appropriate Designated Security Authority (DSA) of a Project Security Instruction (PSI) and a Classification Guide (CG) prior to the transfer of Classified Information or Controlled Unclassified Information;

4.3.7 Reviewing and forwarding to the Participants for approval recommended amendments to this MOU in accordance with Section 17 (Amendment, Withdrawal, Termination, Entry into Effect, and Duration);

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- 4.3.8 Monitoring Third Party sales and transfers authorized in accordance with Section 12 (Third Party Sales and Transfers);
 - 4.3.9 Ensuring approval of Cooperative Project Personnel (CPP) to another Participant's facilities to work on a PA in accordance with paragraph 4.5, Annex B of this MOU and national policies and procedures;
 - 4.3.10 Providing recommendations to the Participants for the addition of new Participants in accordance with Section 14 (Participation of Additional Nations);
 - 4.3.11 Approving plans to manage and control the transfer of Project Equipment provided by a Participant to support the execution of a Project in accordance with Section 7 (Project Equipment);
 - 4.3.12 Approving plans for the disposal of jointly acquired Project Equipment under a PA to this MOU in accordance with Section 7 (Project Equipment); and
 - 4.3.13 Approving the Financial Management Procedures Document (FMPD) and International Project Management Plan (IPMP) for a PA and all subsequent changes.
- 4.4 The POs will be identified in each PA and will be responsible for:
- 4.4.1 Effective implementation, efficient management and direction of their assigned PA including technical, cost, and schedule performance against requirements;
 - 4.4.2 Executing the approved IPMP;
 - 4.4.3 Developing and submitting any required changes to the approved IPMP to the SC for approval;
 - 4.4.4 Executing the financial aspects of a Project in accordance with Section 5 (Financial Provisions) of this MOU and the PA;
 - 4.4.5 Referring issues to the SC that cannot be resolved by the POs;
 - 4.4.6 Developing and forwarding to the SC a PSI and CG for a Project involving Classified Information within three months after PA signature, and implementing them upon final approval;
 - 4.4.7 Developing and recommending to the SC amendments to a PA;
 - 4.4.8 Developing and implementing SC-approved plans to manage and control the transfer of Project Equipment provided by a Participant in accordance with Section 7 (Project Equipment);

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- 4.4.9 Developing and implementing SC-approved plans for disposal of jointly acquired Project Equipment under a PA to this MOU in accordance with Section 7 (Project Equipment);
- 4.4.10 Reporting to the SC on the status of a Project; and
- 4.4.11 Developing and forwarding for approval to the SC, an FMPD and any required changes to the FMPD.
- 4.5 Any Participant may assign CPP to another Participant's facilities to work on a Project. Provisions for CPP are set out in Annex B (Cooperative Project Personnel).
- 4.6 Each Project will be covered by a PA and be managed in accordance with best principles and practice of project management. This will include, but not be restricted to the creation, maintenance and implementation of an IPMP; master project schedule, risk register, and statement of work.
- 4.6.1 The IPMP expands on the sharing of tasks, breakdown and schedule of tasks and management defined in the PA. The IPMP will include: detailed roles and responsibilities of the Participants in accordance with the PA; review and management process; management of interface between Participants and the Contractors; risk management; quality assurance; performance; cost and schedule trade-off management; logistics support; test, evaluation, and acceptance management.
- 4.6.2 The master project schedule will be created, maintained and reviewed as defined in the IPMP.
- 4.6.3 The risk register is an output of the overall risk management process as defined in the IPMP.
- 4.6.4 The statement of work expands on the objectives and scope of work defined in the PA. The management of it is defined in the IPMP.

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SECTION 5

FINANCIAL PROVISIONS

5.1 Each Participant will bear the costs it incurs for performing, managing, and administering its activities under this MOU and participation in PAs, including its share of any Contracts let under the provisions of paragraph 5.6.

5.2 This MOU does not create financial or non-financial commitments regarding individual PAs. Detailed descriptions of the financial arrangements for a specific Project, including the total cost of the Project and each Participant's cost share, will be contained in that PA.

5.3 Each Participant will contribute its equitable share of the full Financial and Non-Financial Costs that are incurred in performing, managing, and administering its responsibilities under this MOU and applicable PAs. Such costs include overhead costs, administrative costs, and costs of claims, and each Participant will receive an equitable share of the results as defined in this MOU and the applicable PA. The tasks to be performed by each Participant will be established in each PA. The assignment of tasks will represent an equitable sharing of the costs of work to be performed under the PA and the agreed sharing of the results will represent an equitable sharing of the results under the PA. Each Participant will endeavor to perform, or have performed, work specified in each PA within the costs specified in the PA.

5.4 A Participant will promptly notify the other Participants if available funds are not adequate to fulfill its responsibilities under this MOU or its PAs, and will immediately consult on the course of action to be taken with a view toward continuation on a changed or reduced basis.

5.5 The following costs will be borne entirely by the Participant incurring the costs or for whom the costs were incurred:

5.5.1 Costs associated with any unique national requirements of a Participant; and

5.5.2 Any other costs not expressly stated as shared costs or any costs that are outside the scope of this MOU and its PAs.

5.6 When authorized and approved by all the Participants pursuant to a PA, the Participants recognize that it may become necessary for one Participant, consistent with its national laws, to incur contractual or other obligations for the benefit of the other Participants prior to the receipt of the other Participants' funds. In the event one Participant incurs such obligations, the other Participants will make funds available in such amounts and at such times as may be required by the Contract or other obligations, and will pay their equitable share of any damages and costs that may

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accrue from the performance of or cancellation of the Contract or other obligation in advance of the time such payments, damages, or costs are due.

5.6.1 Where a Participant contracts on behalf of all the Participants pursuant to a PA, the POs will be responsible for establishing the detailed financial management procedures under which the Project will operate prior to any transfer of funds between the Participants. These procedures, which must accord with the national accounting and audit requirements of the Participants, will be detailed in a FMPD proposed by the POs and subject to the approval of the SC or national authorities, as appropriate. Each Participant will provide funds for a Project in accordance with the estimated schedule of financial contributions, which will be contained in the FMPD.

5.7 The allocation of costs associated with the assignment of CPP is specified in Annex B (Cooperative Project Personnel).

5.8 Each Participant will be responsible for the audit of the activities for which it is responsible pursuant to a PA in accordance with its own national practices. For PAs where funds are transferred from one or more Participants to another Participant, the receiving Participant will be responsible for internal audit regarding administration of the other Participant's funds in accordance with national practices. Audit reports of such funds will be promptly made available by the receiving Participant to the other Participant(s).

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SECTION 6

CONTRACTING PROVISIONS

- 6.1 If a Participant determines that Contracting is necessary for it to fulfill its responsibilities under a PA, that Participant will contract in accordance with its national laws, regulations and procedures. When one Participant contracts solely on its own behalf to perform its tasks under a PA, it will be solely responsible for its own Contracting, and the other Participants will not be subject to any liability arising from such Contracts without their written consent.
- 6.2 If the Participants determine that it is necessary under a PA that one Participant contracts on behalf of other Participants for tasks under the PA, that Participant will contract in accordance with its national laws, regulations and procedures. Such contractual arrangements will be detailed in the particular PA. Entities from all Participants to the PA will be allowed to compete on an equal basis for such PA Contracts. The Contracting Officer will be the exclusive source for providing contractual direction and instructions to Contractors and prospective Contractors. The POs will be responsible for the coordination of activities relating to a PA and will cooperate with the Contracting Officer in the areas of Contract procedures, Contract negotiation, evaluation of offers, and Contract award. The Contracting Officer will also keep the POs advised of all financial arrangements with Contractors. The POs will, upon request, be provided a copy of all statements of work prior to the development of solicitations.
- 6.3 Each Participant's Contracting Agency will negotiate to obtain the rights to use and disclose Project Information required by Section 8 (Disclosure and Use of Project Information). Each Participant's Contracting Agency will insert into its prospective Contracts (and require its Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU and the PA, including Section 7 (Project Equipment), Section 8 (Disclosure and Use of Project Information), Section 9 (Controlled Unclassified Information), Section 11 (Security) and Section 12 (Third Party Sales and Transfers) of this MOU. During the Contracting process, each Participant's Contracting Officer will advise prospective Contractors of their obligation to notify the Contracting Agency immediately if they are subject to any license or arrangement that will restrict that Participant's freedom to disclose information or permit its use. The Contracting Officer will also advise prospective Contractors to employ their best efforts not to enter into any new arrangement that will result in such restrictions.
- 6.4 In the event the Contracting Agency is unable to secure adequate rights to use and disclose Project Information as required by Section 8 (Disclosure and Use of Project Information), or is notified by Contractors or potential Contractors of any restrictions on the disclosure and use of information, that Participant's PO will notify each other Participant's PO of the restriction(s). The POs will immediately determine

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whether this matter will be referred to the SC for consideration of the consequences and resolution of the way ahead.

6.5 Each Participant will promptly advise the other Participants to a PA of any cost growth, schedule delay or other performance problems of any Contractor for which its Contracting Agency is responsible. Any problems that affect the scope of work or financial arrangements under a PA will be referred to the SC for resolution.

6.6 No requirement will be imposed by any Participant for work sharing or other industrial or commercial compensation in connection with this MOU and any PA that is not in accordance with this MOU.